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Equal Employment Opportunity Commission v. OCS Group, Inc.

Judge George B. Daniels

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Equal Employment Opportunity Commission v. OCS Group, Inc.

Keywords

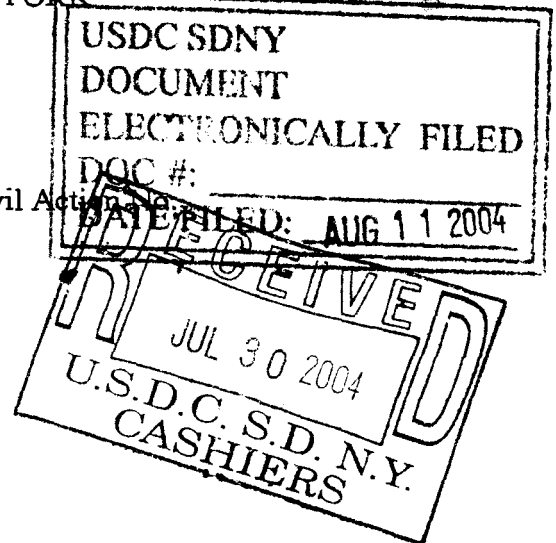
EEOC, OCS Group Inc., 04 CV 5947, Consent Decree, Disparate Treatment, Compensation, National Origin, Race, Black, Other, Title VII, Employment Law

JUDGE DANIELS

04 CV 5947
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,)
)
)
-against-)
)
)
OCS GROUP, INC.)
Defendant.)

Civil Action No. 04-CV-5947



CONSENT DECREE

In this action, Plaintiff, the Equal Employment Opportunity Commission (hereinafter the "EEOC"), an agency of the United States Government, alleges that OCS Group, Inc. (hereinafter "Defendant" or "OCS") discriminated against Charging Parties, Eric Minta, Lovell Ologbosere, Paul Noble, and Abdou Touray (hereinafter "Charging Parties"), due to their race (Black), color (dark-skinned), and/or national origin (accent), by paying them lower wages than similarly situated Caucasian, Hispanic, and/or lighter-complexioned security guards who do not speak with an accent and performed the same or substantially similar work, in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-2(a).

The EEOC and Defendant desire to settle this action, and therefore do hereby stipulate and consent to the entry of this Decree. This Decree resolves all matters raised in the complaint in this action which is filed contemporaneously herewith in the United States District Court for the Southern District of New York. Defendant and the EEOC (hereinafter "the parties") agree that this Decree is being entered into without Findings of Fact and Conclusions of Law having been made and entered by

the Court. The parties agree and understand that this Decree in no way affects the EEOC's right to process any pending or future charges that may be filed against Defendant in accordance with standard EEOC procedures, and to commence civil actions on any such charges unrelated to those referenced above.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and it is therefore ORDERED, ADJUDGED AND DECREED that:

1. This Decree resolves all issues raised in EEOC Charge Numbers 160-A2-0096, 160-A2-0097, 160-A2-0098, and 160-A2-0099 and in the Complaint filed by the EEOC in this case.
2. The parties agree and the Court finds that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative prerequisites have been met. No party shall contest the validity of this Decree, or the jurisdiction of the federal district court to enforce this Decree and its terms.
3. This Decree is being issued with the consent of the parties and does not constitute an adjudication or finding by this Court on the merits of the allegations of the Complaint. Nothing contained in this Decree shall be construed as an admission of liability on the part of Defendant, who has denied and continues to deny the allegations of the Complaint.
4. Defendant and its managers, officers, agents, successors, and assigns are enjoined from discriminating against any individual because of the individual's race, color, and/or national origin. Defendant and its agents further agree not to retaliate against any individual who has participated in this matter in some way, given testimony in this matter or asserted his or her rights under Title VII.

5. In settlement of this dispute, Defendant shall pay each Claimant identified in Exhibit "A" annexed hereto the amount specified therein, for a total of \$57,000. Defendant will provide a W-2 to each claimant for the amounts identified in Exhibit "A" as gross back pay and be responsible for all applicable withholdings. Defendant is not required to make any deductions or contributions for the amounts specified in Exhibit "A" as compensatory damages but it shall issue a 1099 to each claimant.

6. Defendant shall make such payments within 14 (fourteen) days after receiving notice of the Court's entry of this Consent Decree. The payments, along with a statement itemizing the customary and lawful deductions, shall be mailed directly to the claimants at their addresses identified in Exhibit "A." A copy of each check and accompanying transmittal papers shall be contemporaneously forwarded to Adela Santos, Trial Attorney, EEOC, New York District Office of the EEOC, New York District Office, 33 Whitehall Street, New York, New York, 10004-2112.

7. Defendant shall continue to post the EEOC's poster at its facilities in a place that is visually accessible to all its employees and applicants for employment.

8. Within 14 (fourteen) days after receiving notice of the Court's entry of this Consent Decree, Defendant shall post at its facilities in a place that is visually accessible to all employees a copy of the notice printed on its letterhead in the form attached hereto as Exhibit "B".

9. Defendant will develop and incorporate a module into its existing training program that addresses the prohibition of discrimination in employment for all employees. Within sixty (60) days after the entry of this Consent Decree Defendant will provide a copy of the proposed module to the EEOC for its review and approval.

10. Defendant shall provide, on an annual basis, no fewer than two (2) hours of training in Federal laws that prohibit discrimination in employment to all present and future management and supervisory employees. A copy of the training materials used and the names and titles of the persons who attend each session shall be provided to the EEOC on or before December 31st of each year throughout the term of this Consent Decree.

11. Defendant has adopted and will continue to maintain a policy that prohibits discrimination in the workplace and a grievance procedure for employees to report complaints of discrimination. Such policy and procedure shall be distributed to all employees within thirty (30) days after the entry of this Consent Decree.. A copy of Defendant's policy and complaint procedure is annexed hereto as Exhibit "C."

12. Defendant will provide a neutral reference letter for all Charging Parties if requested. Such letter would contain only the following information: dates of employment, positions held, and the salary or wage earned in their last position. All requests for a neutral reference letter shall be made to David Faignaeart, Chief Financial Officer.

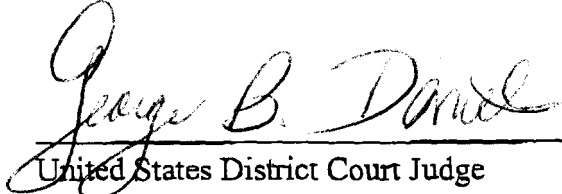
13. The EEOC may monitor and review Defendant's compliance with the terms of this Consent Decree, including but not limited to, reasonable requests for inspection and copying of records and interviewing employees.

14. This Consent Decree will remain in effect until three (3) years from the date of its entry by the Court.

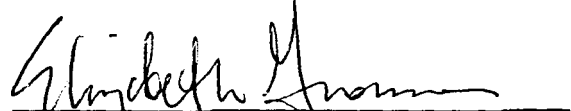
SO ORDERED, ADJUDGED AND DECREED.

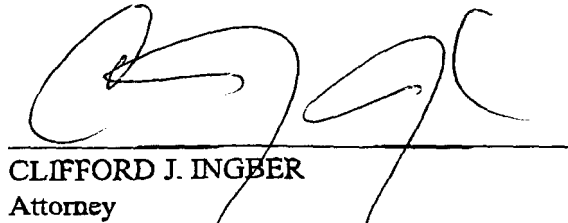
Signed this ____ day of July, 2004.

AUG 11 2004


United States District Court Judge

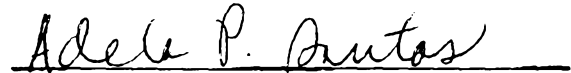
JUDGE GEORGE B. DANIELS


ELIZABETH GROSSMAN
Supervisory Trial Attorney


CLIFFORD J. INGBER
Attorney

Ingber & Ingber
335 Greenwich Avenue
Greenwich, CT 06830
(203) 629-6170
(203) 629-3954 (Fax)

ATTORNEYS FOR DEFENDANT


ADELA P. SANTOS
Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
33 Whitehall Street, 5th Floor
New York, NY 10004-2112
(212) 336-3690
(212) 336-3623 (Fax)

ATTORNEYS FOR PLAINTIFF

Name	Backpay	Compensatory	Total	Address
Lovell Ologbosere	\$ 5,000	\$ 9,250	\$ 14, 250	[REDACTED]
Paul Noble	\$ 5,000	\$ 9,250	\$ 14, 250	[REDACTED]
Eric Minta	\$ 5,000	\$ 9,250	\$ 14, 250	[REDACTED]
Abdou Toray	\$ 5,000	\$ 9,250	\$ 14, 250	[REDACTED]
Totals:	\$ 20,000	\$ 37,000	\$ 57,000	

EXHIBIT "A"

NOTICE

1. This notice to all employees of OCS GROUP, INC., in New York, NY, is being posted and provided as part of a consent decree between OCS GROUP, INC., as Defendant and the U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, as Plaintiff. As part of the resolution of this matter, OCS GROUP, INC., agrees to provide equal employment opportunity to all persons in hiring without regard to disability, age, sex, race, color, national origin or religion and agrees to provide its employees with accessible avenues of complaint, provide thorough and impartial investigation and take immediate corrective action when discrimination occurs. OCS GROUP, INC., also will not retaliate against any employee who brings forth a complaint pursuant to its equal employment opportunity policies or otherwise engages in protected activity under Federal anti-discrimination laws.
2. Federal law requires that there be no discrimination against any employee or applicant for employment because that person made a complaint of discrimination because of sex, race, national origin, color or religion, age or disability with respect to hiring, compensation, promotion, discharge, or other terms, conditions or privileges of employment. Employees are also protected from retaliation for complaining about unlawful discrimination or for otherwise opposing unlawful discriminatory conduct.
3. OCS GROUP, INC., will comply with such Federal law in all aspects, and it will not take any action against employees because they have exercised their rights under the law by filing charges or cooperated with the U.S. Equal Employment Opportunity Commission or by otherwise opposing employment practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.
4. The Equal Employment Opportunity Commission maintains offices throughout the United States. Its toll-free telephone number is 1-800-USA-EEOC. The New York District Office of the Equal Employment Opportunity Commission which has jurisdiction over the state of New York can be reached at 1-800-669-4000 or dialed directly at (212) 336-3620. The EEOC may also be contacted through its website at www.eeoc.gov.
5. This NOTICE will remain posted until July , 2007 [3 YEARS FROM DATE OF SIGNATURE].

SIGNED this ____ day of July, 2004.

CHIEF EXECUTIVE OFFICER

EXHIBIT "B"

Sexual Harassment

OCS Security will not tolerate Sexual Harassment of any kind. Sexual Harassment is defined as a continued pattern of unwelcome sexual advances, request for sexual favors, or physical contact of a sexual nature any of the following conditions:

1. When submission to the conduct involves a condition of the individual's employment, either stated or suggested.
2. The individual's submission or refusal is used, or might be used, as the basis of an employment decision that affects the individual.
3. The conduct unreasonably interferes with the individuals job performance, or creates a work environment that is hostile, intimidating or offensive.

The President is responsible for managing all complaints of sexual harassment and for ensuring that all complaints are investigated fully and fairly, regardless of the manner in which they are made, or the individuals involved.

Employees are encouraged to take complaints of sexual harassment to their immediate supervisor, the Director or Human Resources at 212-398-3527 or the President at 212-277-9601. A female company representative will be made available, should the complaining employee indicate such a preference.

A management investigator designated by the President will thoroughly and fairly investigates every complaint, without bias or premature judgment. Such an investigation will include interviews with the employee involved, the subject of the complaint, and coworkers and former employees who may have knowledge of the situation. The investigator will conduct a thorough review of the files and other tangible evidence, and should be given all necessary access privileges for this purpose. The investigator will make every reasonable attempt to rationally and objectionably resolve any questions of credibility between the complaining and the accused employee.

The President will review every case, including the investigator's findings and recommendations. The President will ensure that the complaint has been fully and impartially investigated. If the evidence supports the allegation of harassment, the President will implement appropriate disciplinary action against the offending employee.

If you are aware of become aware of any conduct that may constitute sexual harassment, you are obligated to report it to the Director of Human Resources or the President.

EXHIBIT "C"

Equal Employment Opportunity

It is the belief of OCS Security that everyone should have an equal chance to work and advance whenever possible. We also feel that it is our moral obligation to establish policies which are committed to the principals of equal employment opportunity and it is our policy to comply with all federal, state and local laws concerning employment discrimination.

It is the policy of OCS Security to ensure the treatment of all employees and applicants for employment without unlawful discrimination as to race, color, creed, national origin, sex, disability, age marital status, sexual orientation, citizenship status, or veteran status. This will be used in all employment decisions, including, but not limited to, recruitment, hiring, job, assignment, compensation, benefits, training, promotion, demotion, layoff, termination, working conditions, and all other terms and conditions of employment.

In keeping with this standard, we ask that each of you be a partner in the effort by supporting, in word and in action, the principles of our EEO commitment. If you are or become aware of any conduct or activity that may violate the letter or spirit of this policy, you are obligated to report it to the Director of Human Resources or the President.

Ethics and Personal Conduct

The company expects all employees to avoid activities that create conflicts of interest with their responsibilities with the company. Each employee has an obligation to refrain from activities that conflict or interfere with company operations or with others with whom the company does business.

Conflicts of interest include, but not limited to:

1. Legal requirements – employees are prohibited from doing anything in the conduct of business which would violate any local, state or federal law, order, or regulation.
2. Fair competition – all employees will conduct themselves in a fair and ethical manner when dealing with customers and suppliers.
3. Ethical requirements – should an employee's employment be terminated for any reason, all OCS property must be returned to the company. Additionally, all information related to OCS business dealing and clients must be held in the strictest confidence. Some employees may be required to sign a non-compete and or a non-solicitation agreement.
4. Conflict of Interest – employees should refrain from using the company's reputation or resources for personal gain, and avoid outside activities or influences which conflict with, compete with, or impair the performance of their duties, or which give appearance of doing so.